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★ JUN 07 2013 ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK

SETH D. HARRIS, Acting Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

TJC CORP., a Corporation
d.b.a. CIRCA RISTORANTE ENOTECA

Defendant

Civil Action File

No.

13-CV-2993

SJF, GRB

CONSENT JUDGMENT

Plaintiff, the Acting Secretary of Labor, has filed his Complaint and defendant TJC CORP. d.b.a. CIRCA RISTORANTE ENOTECA, appeared by Counsel, waives its answer, and agrees to the entry of this judgment without contest. By executing this Consent Judgment, defendant TJC CORP. waives formal service of process of the summons and complaint in this matter.

Defendant TJC CORP. d.b.a. CIRCA RISTORANTE ENOTECA appeared by Counsel, acknowledges its responsibilities pursuant to this agreement, and acknowledges that it will be subject to sanctions in contempt of this court if it fails to comply with the provisions of this Judgment. It is, therefore, upon motion of the attorneys for plaintiff and for cause shown ORDERED that:

I. Defendant TJC CORP., its officers, employees, agents, and all persons acting or claiming to act in the defendant's behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 6, 7, 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. Section 201 et seq.), (the Act), in any of the following manners:

(1) Defendant TJC CORP. shall not, contrary to Section 6 of the Act, pay to any of its employees who in any workweek are engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at rates less than those which are now, or which in the future may become, applicable under Section 6 of the Act.

(2) Defendant TJC CORP. shall pay employees at time and one-half their regular hourly rates for all hours worked over 40 per week, and shall not, contrary to Section 7 of the Act, employ any of their employees in any workweek for workweeks longer than the hours now, or which in the future become, applicable under Sections 7 and 15(a) (2) of the Act, unless the employee receives compensation in compliance with the Act.

(3) Defendant TJC CORP. shall make, keep, and preserve adequate records of its employees and of the wages, hours, and other conditions and practices of employment maintained by it as prescribed by the Regulations issued pursuant to Section 11(c) of the Act and found at 29 CFR Part 516.

II. Defendant TJC CORP. d.b.a. CIRCA RISTORANTE ENOTECA is enjoined and restrained from withholding the payment of a total of **\$60,745.49 (\$4,246.59 in minimum wage compensation, plus \$25,825.41 in overtime compensation, plus \$601.49 in interest, plus \$30,072.00 in liquidated damages)** due certain employees set forth in Exhibit A. Payment of this amount will be made in the total amount by **March 28, 2015** which is in accordance with the amounts due and date set forth in Exhibit B.

All payments shall be in separate cashier or certified checks made payable to **“Wage and Hour Division - Labor”** with **“Case No. 1612468”** written on the face of each check.

The checks shall be sent to:

**U.S. Department of Labor/Wage & Hour Division
The Curtis Center, Suite 850, West
170 S. Independence Mall West
Philadelphia, PA 19106-3317**

III. On or before the dates indicated on Exhibit B, Defendant TJC CORP. shall send a copy of each of the checks to:

**U.S. Department of Labor/Wage & Hour Division
1400 Old Country Road, Suite 410
Westbury, New York 11590-5119
Attn: Richard Mormile, Assistant Director**

IV. Neither Defendant TJC CORP. nor anyone acting on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid as back wages under this Judgment.

V. The plaintiff shall deliver the proceeds of each check less any legal deductions to the employees named on Exhibit A. Any sums not distributed to the employees or to their personal representatives, because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be deposited with the Clerk of this Court who shall forthwith deposit such money with the Treasurer of the United States pursuant to 28 U.S.C. §2041 and §2042.

VI. Defendant TJC CORP. shall provide to plaintiff the social security numbers and last known addresses of the defendant's employees and former employees to be paid under this judgment.

VII. Defendant TJC CORP. shall pay civil money penalties in the amount **\$10,053.12 (\$9,856.00 in civil money penalties plus \$197.12 in interest) no later than April 28, 2015.** Payment shall be made by separate cashier or certified check[s] made payable to **"Wage and Hour Division - Labor"** with **"Civil Money Penalty – FLSA Case No. 1612468"** written on

the face of the check for \$10,053.12. Payment of this amount will be made in accordance with the amount and due date set forth in Exhibit B.

The certified check[s] shall be sent to:

**U.S. Department of Labor/Wage Hour Division
The Curtis Center, Suite 850 West
170 S. Independence Mall West
Philadelphia, PA 19106-3317**

On or before April 28, 2015, Defendant TJC CORP. shall send a copy of the check to Richard Mormile, Assistant Director as set forth in paragraph III above.

VIII. If Defendant TJC CORP. fails to make an installment payment on Exhibit B without making up the arrearage within two weeks after written notice to defendant, the entire balance shall become due and payable immediately.

IX. Defendant TJC CORP. shall place FLSA posters in English and in any other language spoken by the employees. These posters will be provided by the Wage and Hour Division as available. Defendant TJC CORP. shall display the posters where employees may view them.

X. Neither the commencement of this action nor the provisions of this Consent Judgment shall in any way affect, determine, or prejudice any and all legal rights of any employees of defendant not listed in Exhibit A of this Judgment, be they current or former employees, to file any action against defendant under section 16(b) of the Act or likewise for any current or former employee listed on Exhibit A of this Judgment to file any action against defendant under section 16(b) of the Act for any violations alleged to have occurred after **October 2, 2011**.

XI. Each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

SO ORDERED:

DATED: 6/7/13
Central Islip, NY

s/ Sandra J. Feuerstein
6/
UNITED STATES DISTRICT JUDGE

Defendant TJC CORP. has appeared by counsel and
Consents to the entry of this Judgment.

TJC CORP.,
d.b.a. CIRCA RISTORANTE ENOTECA

BY:


Stuart Steinberg, Esq.

Steinberg, Fineo, Berger and Fischhoff P.C.
40 Crossways Park Drive
Woodbury, NY 11797

Attorneys for Defendant TJC CORP.

EXHIBIT A

TJC CORP.
d.b.a. CIRCA RISTORANTE ENOTECA
CASE ID 1612468

<u>Last Name</u>	<u>First Name</u>	<u>BWs Due</u>	<u>Liquidated Damages</u>	<u>Totals</u>
ABRAMS	DAVID	\$19.18	\$19.18	\$38.36
ALEMAN	OSCAR JAVIER	\$871.88	\$871.88	\$1,743.76
ALVARADO	ALEXANDER	\$1,320.00	\$1,320.00	\$2,640.00
BARBER	RAYMOND	\$21.58	\$21.58	\$43.16
BENAVIDES	RAUL	\$720.92	\$720.92	\$1,441.84
BONILLA	MARTIN	\$3,678.57	\$3,678.57	\$7,357.14
CANALES	JOSE	\$757.80	\$757.80	\$1,515.60
CASPERSON	GREGORY	\$67.78	\$67.78	\$135.56
CASTANO	DIEGO	\$3,571.52	\$3,571.52	\$7,143.04
DE LUCA	NICOLE	\$39.45	\$39.45	\$78.90
ESPINOZA	CARLOS	\$531.20	\$531.20	\$1,062.40
ESTEVEZ	JUAN	\$102.68	\$102.68	\$205.36
FUENTES	DANIEL	\$35.37	\$35.37	\$70.74
GOLDFINGER	MICHAEL	\$46.10	\$46.10	\$92.20
GONZALEZ	MARTIR	\$4,451.94	\$4,451.94	\$8,903.88

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TJC CORP.
d.b.a. CIRCA RISTORANTE ENOTECA
CASE ID 1612468

<u>Last Name</u>	<u>First Name</u>	<u>BWs Due</u>	<u>Liquidated Damages</u>	<u>Totals</u>
GONZALEZ	MIGUEL	\$15.79	\$15.79	\$31.58
GONZALEZ	WUILMAR	\$1,210.89	\$1,210.89	\$2,421.78
HORNESTEIN	JAYROD	\$19.50	\$19.50	\$39.00
LOPEZ	JUAN	\$248.51	\$248.51	\$497.02
LOPEZ	NELSON	\$243.69	\$243.69	\$487.38
MEJIA	JOSE ANTONIO	\$3,940.03	\$3,940.03	\$7,880.06
MOLINA	CARLOS	\$739.75	\$739.75	\$1,479.50
MOREJON	MARVIN	\$43.99	\$43.99	\$87.98
O'NEILL	THOMAS	\$41.60	\$41.60	\$83.20
PORTILLO	FABRICIO	\$2,637.43	\$2,637.43	\$5,274.86
RIVERA	MARIO	\$960.48	\$960.48	\$1,920.96
ROSSE	FRANK	\$29.90	\$29.90	\$59.80
SCALCO	TONY	\$60.40	\$60.40	\$120.80
SCANELLA	AMY	\$1,400.00	\$1,400.00	\$2,800.00

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TJC CORP.
d.b.a. CIRCA RISTORANTE ENOTECA
CASE ID 1612468

<u>Last Name</u>	<u>First Name</u>	<u>BWs Due</u>	<u>Liquidated Damages</u>	<u>Totals</u>
SIMMONS	JACKIE	\$26.00	\$26.00	\$52.00
SOSA	OSCAR	\$639.60	\$639.60	\$1,279.20
WIEDMER	SUSAN	\$1,578.47	\$1,578.47	\$3,156.94
TOTALS	-	\$30,072.00	\$30,072.00	\$60,144.00

EXHIBIT A

EXHIBIT B

TJC CORP.
d.b.a. CIRCA RISTORANTE ENOTECA
CASE ID 1612468

<u>Payment No.</u>	<u>DATE DUE</u>	<u>AMOUNT DUE</u>	<u>INTEREST DUE</u>	<u>TOTAL DUE</u>
1	05/28/2013	\$2,614.96	\$6.17	\$2,621.13
2	06/28/2013	\$2,614.96	\$3.99	\$2,618.95
3	07/28/2013	\$2,614.96	\$5.60	\$2,620.56
4	08/28/2013	\$2,614.96	\$30.88	\$2,645.84
5	09/28/2013	\$2,614.96	\$6.21	\$2,621.17
6	10/28/2013	\$2,614.96	\$4.03	\$2,618.99
7	11/28/2013	\$2,614.96	\$47.82	\$2,662.78
8	12/28/2013	\$2,614.96	\$6.24	\$2,621.20
9	01/28/2014	\$2,614.96	\$4.06	\$2,619.02
10	02/28/2014	\$2,614.96	\$14.21	\$2,629.17
11	03/28/2014	\$2,614.96	\$26.61	\$2,641.57
12	04/28/2014	\$2,614.96	\$19.90	\$2,634.86
13	05/28/2014	\$2,614.96	\$33.23	\$2,648.19
14	06/28/2014	\$2,614.96	\$31.62	\$2,646.58
15	07/28/2014	\$2,614.96	\$31.11	\$2,646.07
16	08/28/2014	\$2,614.96	\$109.94	\$2,724.90
17	09/28/2014	\$2,614.96	\$5.33	\$2,620.29
18	10/28/2014	\$2,614.96	\$3.15	\$2,618.11
19	11/28/2014	\$2,614.96	\$84.49	\$2,699.45
20	12/28/2014	\$2,614.96	\$3.19	\$2,618.15
21	01/28/2015	\$2,614.96	\$56.26	\$2,671.22
22	02/28/2015	\$2,614.96	\$36.68	\$2,651.64
23	03/28/2015	\$2,614.88	\$30.77	\$2,645.65
TOTALS	-	\$60,144.00	\$601.49	\$60,745.49
24*	04/28/2015	\$9,856.00	\$197.12	\$10,053.12
*CMP TOTAL				

EXHIBIT B